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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,107	01/26/2006	Don Griffin	2G02.1-150 1	9522

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GARDNER GROFF GREENWALD & VILLANUEVA. PC  
2018 POWERS FERRY ROAD  
SUITE 800  
ATLANTA, GA 30339

EXAMINER
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EASTWOOD, DAVID C

ART UNIT	PAPER NUMBER
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3731

NOTIFICATION DATE	DELIVERY MODE
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07/21/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/566,107	GRIFFIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	David Eastwood	3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 22-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 22-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

Receipt is acknowledged of applicant's amendment filed 6/07/2010. Claim 21 has been canceled without prejudice. Claims 1-20 and 22-25 are pending and an action on the merits is as follows.

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the at least one outwardly projecting non-planer lobe projected outwardly relative to a reference plane coincident with an overall forward surface of the end cap of the lancing device must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "26 in figure 5" and "28 in figure 3" have both been used to designate a lobe ; reference character "26" has been used to designate both a lobe in figure 5 and a tip in figure 1.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the

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changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 22 is rejected under 35 USC 101 as being directed to non-statutory subject matter because these are method or process claims that do not transform a particular article to a different state or thing, nor are they tied to a particular machine. See *In re Bilski* (Fed Cir, 2007-1130, 10/30/2008) where the Fed. Cir. held that method claims must pass the "machine-or-transformation test" in order to be eligible for patent protection under 35 USC 101. because, in the instant case, claim 22 recites reducing the sensation of pain by a subject during a lancing procedure but does not positively recite a lancing step thus fails to recite any transformation the claim only recites placing the particular machine in contact with the skin and thus does not impose a meaningful limit on the claim. Merely placing the device on the skin does not cause any transformation nor does it reduce the sensation of pain since there is no step recited which would cause any pain. It is impossible to reduce the sensation of a stimulus if the stimulus is never applied.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. With regard to Claim 20, line 3 of claim 20 recites providing a lancing device with an end cap defining *a non-circular opening* and line 4 recites the end cap defines *a non-circular opening* comprising... It is not clear whether the second recitation of a non-circular opening is referring to the previously recited non-circular opening or if Applicant is trying to claim a separate structure. For examination purposes the second recitation of a non-circular opening will be treated as the same structure as the previously recited non-circular opening.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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2. Claims 1- 4, 6-8, 10, 20, and 22 are rejected under 35 U.S.C. 102(b) (as best understood see 112 2<sup>nd</sup> rejection above) as being anticipated by Douglas et al. (US 5951493) (hereafter Douglas).

Regarding claim 1-2, Douglas discloses a lancing device (10) for collecting a sample of body fluid from a sampling site on the skin of a subject, said lancing device comprising an outer body housing (12) and a lancet (40), the lancet being movable between a first position within the outer body housing and a second position wherein at least a sharp tip portion of the lancet extends through an opening in the outer body housing (see state of lancet disclosed in figure 3), and wherein the opening in the outer body housing has a cross-shaped (where cross is defines as “a structure consisting essentially of an upright and a transverse piece” cross. (n.d.). *Dictionary.com Unabridged*. Retrieved July 12, 2010, from Dictionary.com website:

*Unabridged*. Retrieved July 12, 2010, from Dictionary.com website:

<http://dictionary.reference.com/browse/cross>) periphery (where periphery is defined as “the outward bounds of something as distinguished from its internal regions or center” periphery. (n.d.). *Merriam-Webster's Medical Dictionary*. Retrieved July 12, 2010, from Dictionary.com website: <http://dictionary.reference.com/browse/periphery>, note the annular periphery as depicted in figure 7) comprising four inwardly and four outwardly directed lobes (where lobe is defined as “a roundish projection or division”, lobe. (n.d.). *Dictionary.com Unabridged*. Retrieved July 14, 2010, from Dictionary.com website: <http://dictionary.reference.com/browse/lobe>) (inwardly projecting lobes/notches/divisions denoted by numeral 80 see figure 7 and outwardly projecting lobes terminating in

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surfaces 65a and 67a thus the surfaces of the inwardly projecting lobes forming the transverse piece to the upright structure of the outwardly projecting lobe as disclosed above further note in figure 7 the lobes are rounded in order to curve around the longitudinal axis of the device), the periphery of the opening is non-planar with the inwardly and outwardly directed lobes projecting out of alignment with a reference plane coincident with an overall forward surface of the lancing device housing (note in Fig. 1 and 7 element 60 comprising outwardly projecting lobes having surfaces 65a and 67a as depicted in fig. 7 extends beyond the overall forward surface of the lancing device housing 12 and thus projects out of alignment with a reference plane coincident with an overall forward surface of the lancing device housing).

Regarding claim 3, Douglas discloses a raised rim (65a) around the opening,

Regarding claim 4, Douglas discloses the opening is generally cross-shaped, comprising four lobes (note explanation of cross shaped as applied to claim 1 above further note as depicted in at least fig. 7 the apparatus of Douglas discloses at least four lobes and thus comprises four lobe).

Regarding claim 6, Douglas discloses the lobes are smoothly rounded (note in figure 7 the lobes are rounded in order to curve around the longitudinal axis of the device).

Regarding claims 7-8 and 10, Douglas discloses the lobes (as disclosed above) comprise teeth with sharp points (corner of tabs previously described), at least one outwardly-projecting, non-planar lobe (lobe portion in communication with slot 80) having a sharply-pointed distal tip (see beveled portion of surface 65a depicted in fig. 7),

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the opening has an inside dimension that is smaller than a corresponding outside dimension of the lancet, thereby preventing the lancet from becoming stuck in the opening (reduced inner portion of inner portion 66 which abuts outer rim of lancet 40 see fig. 3).

Regarding claim 20, Douglas discloses a method for acquiring an increased volume of analytic fluid from a sampling site, the method comprising the steps of providing a lancing device with an end cap (annular portion with distal surface 65a depicted in fig. 7) defining a non-circular opening (note fig. 7 where notch portions 80 form a non-circular opening where the opening is discontinuous due to the inwardly and outwardly projected lobes thus forming a non circular opening where a circle by definition must be a continuous ring "a closed plane curve consisting of all points at a given distance from a point within it called the center", circle. (n.d.).

*Dictionary.com Unabridged*. Retrieved July 13, 2010, from Dictionary.com website:

<http://dictionary.reference.com/browse/circle>), wherein the end cap defines a non-circular opening (as previously discussed) comprising a plurality of inwardly (inwardly projecting lobes/notches denoted by numeral 80 see figure 7) and outwardly (outwardly projecting lobes terminating in surfaces 65a and 67a ) directed lobes that are projected inwardly or outwardly relative to a reference plane coincident with an overall forward surface of the end cap of the lancing device (note in fig. 7, the inwardly projecting lobes project inwardly toward the proximal end of the device relative to a reference plane coincident with the overall forward surface of the end cap), placing the lancing device against the skin so that the skin is in communication with the non-circular opening (C7 L40-50),



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applying sufficient pressure on the lancing device to cause tension upon the skin within the non-circular opening (C7 L40-50), triggering the lancing device (C6 L56-64) and continuing to apply pressure upon the skin with the lancing device while fluid is extracted from the sampling site (C7 L5-17).

Regarding claim 22, Douglas discloses a method of reducing the sensation of pain by a subject during a lancing procedure (via reduction of housing contact surface area C7 L40-50), said method comprising contacting a skin surface at or adjacent a sampling site with an irregular lobed contact surface (C7 L40-50), wherein the step of contacting a skin surface at or adjacent a sampling site with an irregular lobed contact surface comprises contacting the skin surface with at least one outwardly-projecting, non-planar lobe (tabs associated with slots 80 in fig. 7) having a sharply-pointed distal tip (see beveled edge 65a disclosed in fig. 7) wherein the at least one outwardly projecting non-planar lobe (outwardly projected lobe as described above) is projected outwardly relative to a reference plane coincident with an overall forward surface of the end cap of the lancing device (where the outwardly projected lobes as disclosed above are at the distal most end of the device therefore are projected outwardly relative to a plane coincident with said outwardly projecting lobe note figure 7).

3. Claims 11-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Christine et al. (US 3922099) (hereafter Christine).

Regarding claim 11-18, Christine discloses an end cap (31) (capable of being used) for a lancing device, said end cap comprising a first end for connection (32) to the

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lancing device, and a second end defining an opening (opening at the distal end depicted in embodiments of fig, 5,6,8) through which a sharp tip of a lancet can pass, the opening having a non-circular periphery comprising a plurality of inwardly and outwardly directed lobes (as defined above note lobes depicted in fig. 5-6 a and b) wherein the plurality of inwardly and outwardly directed lobes are projected inwardly or outwardly relative to a reference plane coincident with an overall forward surface of the end cap (note in fig. 6a where the inwardly and outwardly directed lobes project radially inwardly and radially outwardly relative to the coincident plane), the periphery of the opening is non-planar (note in at least figure 6a the periphery of the opening as rounded edges and is thus non-planar with respect to the periphery), a raised rim around the opening (see distal tapered end of tip disclosed in fig. 5), the opening is generally cross-shaped, comprising four lobes (fig. 6a), the opening is generally star-shaped, comprising five lobes (fig. 6), the lobes are smoothly-rounded (opening disclosed in fig 8), the lobes comprise teeth with sharp points and at least one outwardly-projecting, non-planar lobe having a sharply-pointed distal tip see embodiment depicted in figure 6b).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 6 and 23-25 rejected under 35 U.S.C. 103(a) as being unpatentable over Douglas et al. (US 5951493) (hereafter Douglas) in view of Christine et al. (US 3922099) (hereafter Christine).

Regarding claim 6, Douglas as applied to claim 1 discloses the claimed invention except for the opening is generally star-shaped, comprising five lobes. However, Christine discloses an opening that is generally star-shaped comprising five lobes (note fig. 6). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Douglas with the end cap as disclosed by Christine. Doing so would provide an end cap with lobes which project radially inwardly from the periphery of the circumference of the end cap thus providing a larger contact surface area relative to the opening thereby further isolating the target site from an external portion of the lancet providing a more accurate incision.

Regarding claims 23-25, Douglas discloses a lancing device comprising a non-planer opening through which a lancet tip passes upon actuation of a lancing device (see state of lancet disclosed in figure 3 and non-planer structure as depicted in figure 7) but fails to disclose the opening is generally cross-shaped comprising four lobes

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having smoothly rounded corners, and the lobes of the cross-shaped opening are non-planar. However, Christine discloses a generally cross-shaped opening through which a lancet tip can pass (fig. 6a), comprising four lobes (fig. 6a), a four lobed, cross shaped opening having smoothly-rounded corners (Fig. 8). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Douglas with the end cap as disclosed by Christine. Doing so would provide a plurality of interchangeable end-caps with different open aperture areas which would allow the user to alter the amount of skin surface area exposed to the aperture thus controlling the amount of pressure applied to the surface of the skin.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Douglas et al. (US 5951493) (hereafter Douglas) in view of Chelak et al. (US 6558402)(hereafter Chelak).

Regarding claim 9, Douglas discloses the claimed invention except for at least a portion of the outer body housing near the opening comprises a transparent material. However, Chelak discloses a portion of the outer body housing near the opening comprises a transparent material (115) (C7 L54-62). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Douglas with the transparent material viewing window of Chelak. Doing so would provide a means to visually inspect the targeted site.

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8. Claim 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Christine et al. (US 3922099)(hereafter Christine) in view of Chelak et al. (US 6558402)(hereafter Chelak).

Regarding claim 19, Christine discloses the claimed invention except for a transparent portion near the opening. However, Chelak discloses a portion of the end cap near the opening comprising a transparent material (115) (C7 L54-62). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Christine with the transparent material viewing window of Chelak. Doing so would provide a means to visually inspect the targeted site or other internal components.

### ***Response to Arguments***

9. Applicant's arguments filed 6/07/2010 have been fully considered but they are not persuasive. In an initial matter the Examiner inadvertently omitted claims 23-25 from the rejection line of section 6 of the office action mailed 2/05/2010 and inadvertently inserted claim 25 in the rejection line of section 2 of the aforementioned office action. The limitations of claims 23-25 were clearly addressed in the rejection set forth in section 6 of the aforementioned office action and these inadvertent typographical errors have not inhibited Applicant's understanding of the grounds of rejection as set forth in the aforementioned office action as is apparent in at least pages 6 and 9 of Applicants response.

10. Applicant proffers that the 35 U.S.C. 101 rejection of claim 22 is improper citing that claim 22 calls for "contacting a skin surface at or adjacent a sampling site with an

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irregular lobed contact surface." One of ordinary skill in the art would recognize that a "contact surface" is something tangible that contacts another tangible subject, see *In re Nuijten*, 500 F.3d 1346, 1353 (Fed. Cir. 2007). Specifically, this "irregular lobed contact surface" is a specialized apparatus that is used to physically contact the skin surface of the subject. Applicant, consequently, submits that Claim 22 fulfills a requirement to overcome the rejection under 35 U.S.C. §101. The Examiner respectfully disagrees. Claim 22 specifically recites "a method for reducing the sensation of pain by a subject during a lancing procedure" Applicant has not positively claimed a lancing step or any other step to cause pain from which a reduction in sensation would be reduced. As stated in the 35 U.S.C. 101 rejection above in the instant case, claim 22 recites reducing the sensation of pain by a subject during a lancing procedure but does not positively recite a lancing step thus fails to recite any transformation the claim only recites placing the particular machine in contact with the skin and thus does not impose a meaningful limit on the claim. Merely placing the device on the skin does not cause any transformation nor does it reduce the sensation of pain since there is no step recited which would cause any pain. It is impossible to reduce the sensation of a stimulus if the stimulus is never applied.

11. Applicant's argument that the Douglas and Christine reference fail to disclose the newly presented limitations in amended claims 1, 2, 11, 20 and 22 and have been fully considered and are addressed by a new ground of rejection as set forth above.

12. With respect to Applicants argument directed to the limitations of claim 23-25 Applicant proffers that the combination of Douglas and Christine is improper citing that

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Douglas is directed to a lancet end cap and the Christine reference is directed to a cake decorating or vaginal douche dispenser (P. 8 Line 9 of applicants response). The Examiner respectfully disagrees. In response to Applicant's argument that the Christine reference is nonanalogous art, it has been held that the determination that a reference is from a nonanalogous art is twofold. First, we decide if the reference is within the field of the inventor's endeavor. If it is not, we proceed to determine whether the reference is reasonably pertinent to the particular problem with which the inventor was involved. In *re Wood*, 202 USPQ 171, 174. In the instant case Applicant has set forth a device, a lancet end cap, for the passage of a sample of fluid through an opening. The Christine reference discloses an end cap for the passage of a fluid either cake decorating material or vaginal douche in C1 L10-25 and C3 L50-56 and more broadly the passage of any material in at least the abstract. Therefore the Christine reference teaches an end cap for the passage of a fluid as is directed by Applicant's invention and is therefore reasonably pertinent to the particular problem with which the inventor was involved. Applicant further proffers that Christine teaches away from the invention of Douglas citing to a passage of Douglas which is directed to an embodiment of Douglas not relied upon by the Examiner for rejection purposes namely C7 L51-55 which is directed to the embodiment of figures 9-12 not the recited embodiment of fig. 7 and generic figures 1-6. The Examiner would like to note that the use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. They are part of the literature of the art, relevant for all they contain." In

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re Heck, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968))

13. Applicant further proffers that the combination of Douglas and Christine fail to disclose a “cross-shaped opening through which a lancet tip passes upon actuation of the lancing device”. The Examiner respectfully disagrees. While the interpretation of the Douglas reference with respect to the rejection of claim 23 states that Douglas discloses the claimed invention except for the cross-shaped opening (note page 6 of the aforementioned previous office action). It had been previously addressed that Douglas discloses an opening through which a lancet passes upon actuation (note section 2 of the previous office action as well as figure 3 of Douglas and C6 L55-67), as previously addressed Christine discloses the cross-shaped opening and other opening configurations as disclosed by Christine and It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Douglas with the end cap as disclosed by Christine. Doing so would provide a plurality of interchangeable end-caps with different open aperture areas which would allow the user to alter the amount of skin surface area exposed to the aperture thus controlling the amount of pressure applied to the surface of the skin. Further more it has been held that Express suggestion to substitute one equivalent for another need not be present to render such substitution obvious.” Id. at 301, 213 USPQ at 536. Where both Christine and Douglas disclose an end cap for the passage of fluid or material.



***Conclusion***

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Eastwood whose telephone number is (571)270-7135. The examiner can normally be reached on Monday thru Friday 9 a.m. to 5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. E./  
Examiner, Art Unit 3731  
7/14/2010

/Gary Jackson/  
Supervisory Patent Examiner  
TC 3700  
July 18, 2010